UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

Venture Global CP2 LNG, LLC **Docket No. CP21-131-LNG**

Request for Rehearing of DOE/FECM Order No. 5264-A

Pursuant to Section 19(a) of the Natural Gas Act, 15 U.S.C. § 717r(a), and 10 C.F.R. § 590.501, Sierra Club and the Natural Resources Defense Council hereby request rehearing of the U.S. Department of Energy ("DOE") October 21, 2025 Order in the above-captioned docket: *Venture Global CP2 LNG, LLC,* Final Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations, DOE/FECM Order No. 5264-A (Oct. 21, 2025) ("Order"). That Order granted Venture Global CP2 LNG, LLC's ("CP2") request for authorization to export 1,446 billion cubic feet per year of natural gas, in the form of liquefied natural gas ("LNG"), to countries that do not have a free trade agreement with the United States requiring national treatment for trade in natural gas. Order 4 (Oct. 21, 2025).

This request for rehearing is proper because it is timely filed within 30 days of the Order, 10 C.F.R. § 590.501(a), and because the undersigned were granted intervention in this docket by DOE/FECM Order No. 5264, 37 (Mar. 19, 2025).

DOE's Order is arbitrary and unlawful because it fails to demonstrate that the proposed exports "will not be inconsistent with the public interest." 15 U.S.C. § 717b(a). DOE's analysis of price impacts fails to address the price *increase* that

will result from additional export approvals, or, conversely, how much lower prices would be without additional exports, and the benefits such lower prices would provide to the American public. DOE also improperly dismisses its own predictions, from DOE's 2024 Study, that additional LNG exports increase household energy burdens. And DOE's refusal to consider any environmental impacts other than ship traffic violates both the Natural Gas Act ("NGA") and the National Environmental Policy Act ("NEPA"). DOE's Natural Gas Act analysis is predicated on consideration of how gas markets will respond to additional exports, particularly DOE's prediction that exports will cause drastic expansion in U.S. gas production. DOE cannot entirely or categorically exclude the environmental impacts of this production, or other market effects, from DOE's analysis, nor has DOE historically done so. In December 2024, DOE completed an updated analysis foreseeing many of these environmental effects, and it was arbitrary for DOE to refuse to consider its own analysis here.

Crucially, DOE's own 2024 analysis indicates the only way for the world to limit warming to 1.5 °C will require U.S. LNG exports to fall below *current* levels: there is no room for the forthcoming exports DOE has already approved, much less for still further expansion of U.S. LNG exports. Comments of Earthjustice, *et al.*, on the Dep't of Energy's Dec. 2024 Assessment of U.S. LNG Exports, 7 (Jan. 17, 2025) (citing DOE 2024 Study App. C at C-8). DOE's complete refusal to consider the climate impacts of its decision here, including DOE's own recent analysis of those impacts, was arbitrary.

CONCISE STATEMENT OF ERRORS

1. DOE's treatment of price impacts in the Order is arbitrary and capricious and violates the NGA. DOE acknowledges that allowing increased volumes of LNG exports will increase domestic prices, but it refused to consider the extent of the actual price increases that will result. DOE's refusal to acknowledge the harm that the increases in LNG exports authorized by the Order will cause or the distributional effects of those price increases is arbitrary and capricious and fails to satisfy DOE's responsibility under the NGA to determine whether additional exports are inconsistent with the public interest.
2. DOE's refusal to consider any environmental impacts other than those associated with ship traffic violated the NGA, regardless of whether NEPA also required DOE to consider those impacts. The NGA requires DOE to consider, inter alia, effects on gas supply. Where here, DOE predicts large impacts on gas production and relies on those predicted increases in its public interest analysis, the NGA also requires DOE to consider the environmental impacts of those effects. *Minisink Residents for Env't Pres. & Safety v. FERC*, 762 F.3d 97, 101 (D.C. Cir. 2014). Similarly, where argues that providing gas to global markets will provide strategic benefits, the NGA does not permit DOE to ignore available information about the environmental impacts of use of that exported gas.
3. The Supreme Court's decision in *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 605 U.S. 168 (2025), does not support DOE's conclusion that is has no NEPA obligation to consider environmental impacts other than those

arising from ship traffic. *Seven County* applied the "rule of reason" under which NEPA only requires agencies to provide analysis that can be "useful" to their decisionmaking. The NGA requires DOE to consider broad impacts on gas supplies and prices, despite the fact that DOE does not have direct regulatory authority over those issues. Here, DOE's rationale for approval rests on DOE's prediction that gas exports will spur significant increases in gas production. NEPA analysis of the environmental effects of that increase in impacts is therefore useful to DOE decisionmaking even though DOE does not regulate production.

4. The Categorial Exclusion DOE relied upon is unlawful on its face and as applied here.

   4.1. No Court has held that LNG exports do not have foreseeable environmental impacts relating to production or use of the gas exported. The D.C. Circuit cases DOE cited in adopting the categorical exclusion credited DOE for having foreseen and examined many such impacts, and merely held that DOE was not required to provide *additional* analysis, resting in part on the conclusion that impacts could not be foreseen *in greater detail* than what DOE had already done. *Sierra Club v. DOE,* 867 F.3d 189 (D.C. Cir. 2017) ("*Freeport II*" or, in the Order, referred to as "*Sierra Club I*").

   4.2. More broadly, whether effects are foreseeable is a fact-specific determination that depends on the facts of particular projects and the ever-improving state

of modeling and forecasting tools, and is therefore not an appropriate basis for a categorical exclusion.

4.3. Even if some other case might support a DOE claim that the non-shipping, non-terminal impacts of exports are unforeseeable, here, DOE has actually foreseen many of these impacts, so DOE cannot claim that these effects are unforeseeable here. DOE does not justify refusing to consider the analysis that DOE itself has already prepared.

4.4. The preamble to the Categorical Exclusion and DOE's order here fail to rebut the claim that DOE must consider the environmental impacts of the terminal, whether as a connected action or otherwise. The Categorial Exclusion's claim that DOE does not have authority to act based on information about the terminal's impacts is legally incorrect: DOE's orders delegating authority to FERC expressly reserved such authority to DOE. The Order here entirely failed to respond to arguments about impacts of the terminal.

4.5. DOE fails to demonstrate that the effects of ship traffic, which DOE agrees are foreseeable and within the scope of issues DOE must consider, are insignificant.

ARGUMENT

I. DOE'S DISCUSSION OF PRICE IMPACTS IS ARBITRARY.

A. DOE Failed to Address the Actual Increase Exports Cause in Domestic Gas Prices, and Failed to Demonstrate That This Increase Is Consistent with the Public Interest.

Every study DOE or its sub-agencies have done has concluded that increasing LNG exports increases U.S. gas prices. DOE has never disputed, or provided a basis for doubting, that LNG exports have meant that domestic gas prices are higher than they would have been without LNG exports.

The Order, however, fails to acknowledge the impacts of the known price increases from the Project's LNG exports. The Order instead merely asserts that the prices predicted by DOE's *Energy, Economic, and Environmental Assessment of U.S. LNG Exports* (Dec. 2024) ("DOE 2024 Study"), "'are within the range of prices observed over the past five years' (*i.e.*, since 2018)." Order 45. The question before DOE, however, is not whether the price impacts are larger or smaller than previously predicted. DOE's responsibility in determining whether additional exports are consistent with the public interest is to assess the extent of the increased exports' harms and determine how those harms compare to the exports' benefits, by dismissing the price increases and failing to acknowledge their distributional impact. DOE has failed to demonstrate that those increases are consistent with the public interest; DOE acted arbitrarily and violated the NGA.

1. DOE Cannot Simply Dismiss the Burden Caused by Increased Prices.

DOE does not dispute that increasing LNG exports will raise prices; indeed, the 2024 Study confirms this, as do multiple other energy experts cited in Sierra Club's protest. Protest 6–7 (March 11, 2022). A recent report by DOE's own Energy Information Administration ("EIA") confirms that home heating costs will continue to through 2026, largely due to increases in natural gas prices driven by increasing volumes of LNG exports.[1] DOE's Order attempts to sweep away consideration of the price impacts of LNG exports based on the argument that the anticipated price impacts are smaller than previously anticipated and "are within the range of prices observed over the past five years." *Id.* Neither argument meets DOE's burden here.

The fact that these increases are lower than DOE previously predicted does not answer the question of whether the public would be better off without these increases. Recent Executive Orders have concluded that higher energy prices "devastate Americans, particularly those living on low- and fixed-incomes." Exec. Order 14,156 90 Fed. Reg. 8433 (Jan. 29, 2025). What DOE fails to acknowledge is that these price increases cause harm to households and industrial energy consumers, even if they may be relatively smaller than once thought. DOE's charge under the Natural Gas Act to evaluate whether authorizing greater volumes of LNG exports is consistent with the public interest is not limited to looking at effects that

[1] *Short-Term Energy Outlook*, U.S. Energy Information Admin. (EIA) (Nov. 12, 2025), *available at* https://www.eia.gov/outlooks/steo/.

would be catastrophic to the U.S. economy and American consumers. It must evenly evaluate all harms and weigh them against the purported benefits of authorization.

Even within the same five-year window DOE refers to, price increases have occurred and have caused significant harm to domestic consumers. In the 2021-22 winter, Henry Hub prices increased, initially to values that are relatively close to those cited in the Order.[2] Homes that used gas for heating spent 30% more in the winter of 2021-2022 than they spent the prior winter.[3] Those price shocks were a burden to domestic consumers, so much so that CP2 has tried to distinguish them as unrepresentative of what would occur with planned gradual buildout of exports. *See* Order 42 (summarizing CP2's argument that recent price increases are outliers that should be disregarded). DOE cannot ignore the reality that price increases—even those that are lower than predicted in 2018 and on par with prices from the last 5 years—cause harm to domestic consumers. The extent of that harm must be acknowledged, evaluated, and weighed before DOE can conclude that more LNG exports are consistent with the public interest.

DOE effectively argues that because the prices it predicts would not be worse than what the country has previously experienced, those prices must not be inconsistent with the public interest. This is equivalent to arguing that because the

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[2] *Cf. Natural Gas - Henry Hub Natural Gas Spot Price*, EIA, https://www.eia.gov/dnav/ng/hist/rngwhhdm.htm (last accessed Nov. 20, 2025) (noting prices in February 2022 at $4.69 and March 2022 at $4.90) to Order 46 (predicting Henry Hub price increase caused by LNG exports by 2050 to $4.64).

[3] EIA, *Winter Fuels Outlook* 1 (Oct. 2022), *available at* https://www.eia.gov/outlooks/steo/special/winter/2022_winter_fuels.pdf.

country previously survived allowing patrons to smoke in restaurants, it would not be contrary to the public interest to resume that practice. The question before DOE is not whether the public has experienced prices at those levels before, it is whether those prices were harmful.

DOE further ignored an important part of the problem by ignoring the magnitude of the *increase*, instead looking solely at the resulting price total. DOE's 2024 Study predicts that, if DOE continues to approve exports, then under the "model resolved" scenario, Henry Hub gas prices will be 31% higher than they otherwise would be. DOE 2024 Study at S-4. The question before DOE is not whether the public can tolerate those prices, but whether, on balance, the public would be better off without them, alongside the other benefits and harms of additional exports.

B. DOE Failed to Consider the Distributional Impacts of Price Increases.

As noted by then-Secretary Granholm, DOE's approval of increased LNG exports "exposes a triple-cost increase to U.S. consumers from increasing LNG exports."[4] In all scenarios evaluated, more U.S. LNG exports will increase: (1) core natural gas prices; (2) electricity prices due to gas's role in creating U.S. electricity;

[4] Statement from U.S. Sec'y of Energy Jennifer M. Granholm on Updated Final Analyses (Dec. 17, 2024), *available at* https://www.energy.gov/sites/default/files/2024-12/Statement%20from%20U.S.%20Secretary%20of%20Energy%20Jennifer%20M.%20Granholm%20on%20Updated%20Final%20Analyses_12.17.2024.pdf

and (3) prices of American-made consumer goods, due to pass-through costs from U.S. manufacturers.[5]

In the study, DOE estimates that continuing to export more LNG would increase natural gas and electricity costs for the average American household by well over $100 per year by 2050. DOE 2024 Study at S-4–S-5. While this number may seem insignificant to some, a $100 annual increase is life-altering for many Americans, given that 40% of Americans are only one missed paycheck away from poverty. DOE finds that,

> Gas expenditure impacts per household as a percentage of household income are 8 to 10 times higher for the lowest income group (income of less than $30,000) than for the highest income group in Model Resolved scenarios relative to Existing/FID Exports, under both the Defined Policies (with reference U.S. supply assumption) and Defined Policies Low US Supply. For electricity, this range increases to 9 to 12 times higher.

Id., *App. B: Domestic Energy, Economic, and GHG Assessment of U.S. LNG Exports* B-48. Recent Executive Orders further confirm the heightened burden that higher energy bills create for lower-income Americans. *See, e.g.*, Exec. Order 14,156, 90 Fed. Reg. 8433 (Jan. 29, 2025).

The Order here, however, effectively rejects the existence of any distributional impacts whatsoever. It cites prior D.C. Circuit decisions in doing so, but those decisions predate the 2024 Study in which DOE admitted that the above significant distributional impacts from additional LNG exports are very real and very important. Order 49. The results of the DOE 2024 Study were entered into the

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[5] *Id.*

instant record and therefore paint a completely different picture than what was available in 2017. *See Sierra Club v. DOE*, 703 F. App'x 1, *3 (D.C. Cir. 2017). The fact that petitioners did not provide DOE with an analysis of the distributional consequences of authorizing LNG exports at the household level does not absolve DOE from having to grapple with the results of its own analysis.

The fact that parties did not contest that the project will provide some measure of economic benefit does not allow DOE to ignore the results of its own study, which identify significant potential distributional harms. DOE attempts to deflect this failure by emphasizing the benefits of LNG exports to gross domestic product ("GDP"). Order 50. But as DOE itself has acknowledged, GDP is not everything, which is why DOE provides multiple metrics and doesn't rely on any single one. Dep't of Energy, *Energy, Economic, and Environmental Assessment of U.S. LNG Exports: Response to Comments* 23 (May 2025) ("DOE 2025 Response"). DOE rightly acknowledges in the 2024 Study that focusing on GDP does not capture "secondary effects (e.g., effects resulting from changes in the price of consumer goods) [that] may moderate th[e] relationship" between GDP impacts and increased LNG exports. DOE 2024 Study at S-5. DOE also admits that "an increase in GDP does not necessarily correlate with a positive effect on broader public and consumer welfare." *Id*. While DOE predicts a 0.2% GDP increase by 2050 in "model resolved" case, *id*. at S-29, 75% of that amount comes from the oil and gas sector. DOE's Order acknowledges that benefits to oil and gas companies do not flow to average households, as most Americans do not own stock in fossil fuel companies. Order 37.

II. THE NATURAL GAS ACT REQUIRES DOE TO CONSIDER UPSTREAM AND DOWNSTREAM ENVIRONMENTAL EFFECTS.

The Order errs by failing to provide any analysis of "upstream and downstream environmental effects," such as effects relating to gas production and use. *Id*. at 18. The Order purports to justify this omission by arguing that NEPA does not require DOE to consider these effects. *Id.* As we explain below, the Order's NEPA arguments are mistaken. But even if DOE's interpretation of NEPA was correct, the NGA would still impose an independent and broader obligation to consider upstream and downstream effects.

DOE has repeatedly taken the position that its NGA obligations are broader than DOE contends that NEPA requires. In the 2014 Environmental Addendum, DOE stated that "[b]y preparing this discussion of natural gas production activities, DOE is going beyond what NEPA requires."[6] (To be clear: the undersigned contend that the Addendum erred in this regard as an interpretation of NEPA, but we agree with DOE's prior view that even if NEPA did not require DOE to consider these issues, the NGA did). In individual proceedings, DOE has similarly asserted that "the Department has consistently maintained that an analysis of the environmental impacts of induced natural gas production falls outside the scope of what NEPA requires," Sabine Pass Liquefaction, Dkt. 15-63-LNG, Order 3792A, at 25 (Oct. 20,

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[6] U.S. Dep't of Energy, *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States* 2 (Aug. 15, 2014), available at https://www.energy.gov/sites/prod/files/2014/08/f18/Addendum.pdf ("2014 Addendum").

2016),[7] *accord Corpus Christi Liquefaction Stage III*, Dkt. 18-78-LNG, Order 4490, at 37-41 (Feb. 10, 2020),[8] while nonetheless addressing those effects—including greenhouse gas emissions—in DOE's discussion of the public interest. Thus, DOE previously clearly took the position that issues could be pertinent to its NGA analysis and obligations even if they were outside the scope of the required NEPA analysis.

The Order here reverses this position, acknowledging that DOE is "depart[ing] from [its] past practice of broadly considering the potential upstream and downstream environmental effects of authorizing exports of LNG to non-FTA countries, beyond the transportation of the LNG by marine vessel." Order 57. DOE argues that this departure is justified by developments in NEPA law, including DOE's adoption of a broad categorical exclusion and the Supreme Court's decision in *Seven County Infrastructure Coalition*. *Id.* But developments under NEPA law could not inform the scope of what is required under the Natural Gas Act. And regardless, DOE has not addressed the fact that DOE previously understood its NGA obligations to extend beyond the scope of DOE's NEPA obligations. Under DOE's prior view, these NEPA developments would not be relevant to the scope of an NGA obligation that DOE had already determined reached farther than NEPA. Thus, while DOE has acknowledged that it is departing from its past practice, DOE has

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[7] *Available at* https://www.energy.gov/sites/prod/files/2016/11/f34/ord3792a.pdf.

[8] *Available at* https://www.energy.gov/sites/prod/files/2020/02/f71/ord4490.pdf

not "display[ed] awareness" that it is departing from its past determination that it may be appropriate or necessary under the NGA to consider issues beyond the scope of what NEPA requires, *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009), nor has DOE offered any argument supporting its new implicit position that the NGA does not reach farther than NEPA.

DOE's prior view that effects of natural gas production and use are pertinent to the NGA public interest inquiry is also plainly the best interpretation of the statute. The NGA's "principle aim[s]" are "encouraging the orderly development of plentiful supplies of natural gas at reasonable prices and protecting consumers against exploitation at the hands of natural gas companies," with the "subsidiary purposes" of addressing "conservation, environmental, and antitrust issues." *Minisink Residents*, 762 F.3d at 101 (cleaned up). Given these statutory aims and purposes, questions of how exports will impact production, including whether that production will be "orderly," and the environmental impacts thereof, are all plainly pertinent to the "public interest" protected by the statute.

Beyond these general statutory purposes, a central predicate of DOE's public interest analysis here, on both price and GDP impacts, is the conclusion that exports will spur additional gas production. Even if the NGA did not always require DOE to consider the impacts of upstream gas production, it does require DOE to do so when such an increase in production plays a central role in DOE's analysis. Faced with the statutory charge to ensure the American public has access to gas supplies, DOE concludes that exports will not impair that access because markets

will respond to exports by increasing production, limiting the extent to which the American public must compete with exporters for access to gas. Indeed, the 2024 Study predicts that additional exports will almost entirely be supplied by an increase in production, rather than displacement of existing gas consumption: under the "model resolved" case, the 2024 Study predicts that production will increase by an amount equal to 93% of the volume of additional LNG exports (30.2 bcf/d of additional production, compared to 32.6 bcf/d of additional exports). DOE 2024 Study at S-31. DOE has continued to stand by these estimates. DOE 2025 Response at 18 ("DOE is confident that the natural gas supply curves incorporated in the study were soundly developed based on EIA's assessment of the best available data."). DOE, whose NGA responsibilities include gas supply, gas prices, and environmental concerns, cannot argue that the impact of exports on prices will be limited because production will increase, and then argue that the increase in production is outside the scope of DOE's concern. Similarly, DOE's approval of exports rests on the alleged national security benefits that it claims will result from selling U.S.-produced LNG to foreign nations. Order 52-54. Those benefits will not arise absent actual use of LNG abroad, which DOE has acknowledged has environmental effects. 2024 Study at S-38-S-42. DOE cannot look at only one side of the ledger and rely on the alleged benefit of a particular effect of LNG exports without also examining its costs.

III. *SEVEN COUNTY* DOES NOT PERMIT DOE TO CABIN ITS ANALYSIS OF ENVIRONMENTAL IMPACTS UNDER THE NATURAL GAS ACT OR NEPA.

The Order erroneously applies *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 605 U.S. 168 (2025) ("*Seven County*"). *See* Order 57. *Seven County* is a NEPA case, and as explained above, has no bearing on the scope of DOE's NGA obligations, which DOE has already determined to include a requirement to consider indirect effects even if those effects are outside the scope of DOE's NEPA obligations. But even as to NEPA, the facts here differ in numerous, critical ways from those in *Seven County*, rendering *Seven County* inapplicable. Accordingly, *Seven County* does not support DOE's decision to disregard its 2024 Study's discussion of environmental effects, or DOE's conclusion that it has no obligation to consider environmental impacts beyond ship traffic associated with LNG exports. Order 55-57.

The holding of *Seven County* was that NEPA did not require the Surface Transportation Board, in considering whether to authorize a railroad in Utah, to consider the environmental impacts associated with refining oil transported by that railroad in Texas and Louisiana, or impacts associated with drilling that oil before it is transported by the railroad. *Seven County*, 605 U.S. at 186. The Court held that NEPA did not require consideration of these impacts, even if they were foreseeable. *Id.* at 178, 187-190. In reaching this conclusion, the Court relied on a constellation of factors. Here, DOE only cites one—the assertion that "agencies are not required to analyze the effects of projects over which they do not exercise regulatory authority." Order 57 (quoting *Seven County*, 605 U.S. at 188). *Seven County*, read as

a whole, demonstrates that this language is not determinative, especially for a statute like the NGA that requires broad consideration, under which information about effects that the agency does not directly regulate can still be "useful" to agency decisionmaking.

At its core, *Seven County* relied on the principle, previously articulated in *Dep't of Transportation v. Public Citizen*, that determinations about what NEPA requires reflect "the usefulness of any new potential information to the decisionmaking process." *Seven County*, 605 U.S. at 181 (quoting *Public Citizen*, 541 U.S. 752, 767 (2004)), *id.* at 183, 187-189. Determining what information is "useful" necessarily depends on the substantive statutory provision at issue. In *Seven County*, the decision before the Surface Transportation Board was whether to approve construction of an 88-mile railroad line pursuant to 49 U.S.C. § 10901. The Court held that, in the exercise of that specific statutory authority, it was not "reasonable to hold the agency responsible for [the] effects" of geographically distant oil production or refining, or to hold that those effects were "relevant to the agency's decisionmaking." *Id*. at 187. The Court juxtaposed these effects with the effects that *were* pertinent to the agency's decisionmaking, primarily the direct effects of the railroad itself.

The decision before DOE in deciding whether to approve exports under the NGA is very different than the decision before the Surface Transportation Board in deciding whether to approve a railroad, and the scope of issues "relevant" to the NGA decision and that it is "reasonable to hold" DOE responsible for is

commensurately broader. Congress, in the NGA, instructed DOE to look at the big picture: at impacts on nationwide gas supply and prices. DOE's analysis of these impacts turns on predictions about how gas production will increase. Similarly, DOE's analysis of whether LNG exports further global strategic concerns turns on whether other countries will use the gas the U.S. would export, which countries those are, and what they would do without additional U.S. exports. And even if the Natural Gas Act did not *require* DOE to consider these broad issues, DOE did so in its deliberations here. *Seven County* held that the scope of NEPA analysis should be commensurate with the scope of the agency's substantive decisionmaking. Where the scope of the agency's substantive decisionmaking is already broad, *Seven County* provides no basis for *narrowing* the scope of NEPA obligation.

The NGA, unlike many other statutes, therefore, both permits and requires DOE to "consider" and "analyze" some types of effects and activities "over which [DOE] do[es] not exercise regulatory authority." *Id*. at 187-89. NEPA analysis of those issues, therefore, usefully informs DOE's NGA decisionmaking. In contrast, in the context of the Surface Transportation Board's decisionmaking over whether to approve a railroad, it may have been reasonable for the Court to equate an agency's authority to *consider* an effect in the exercise of its substantive "statutory authority", *id*. at 188 (citing *Public Citizen*, 541 U.S. at 770) with the question of whether the agency had "regulatory authority" over that effect. *Id.* But the NGA clearly requires DOE to consider gas prices even though DOE has no direct authority over those prices, and gas production even though DOE has no direct

authority over that production. Under the NGA, the scope of issues DOE directly regulates cannot be used as a heuristic for identifying the scope of issues that it is appropriate for DOE to consider in its decisionmaking.

This authority to consider issues DOE does not directly regulate, therefore, also distinguishes the *Seven County* concurring opinion's discussion of whether the Surface Transportation Board had authority to prevent the harms of increased oil refining, *etc.*, by rejecting the railroad on the basis of those harms. *Id*. at 193. For example, there is no doubt that DOE has the authority to reject an export application based on concerns that it would cause gas price increases inconsistent with the public interest, notwithstanding the fact that DOE has no direct regulatory authority over gas prices.

Another distinction with *Seven County* is that here, there is no one for DOE to effectively pass the buck to. *Cf. id.* at 187-88 (noting that other agencies regulate the effects at issue). DOE expects that, if it continues to approve exports, an *additional* 32.6 bcf/d of gas will be exported by 2050 (beyond the exports that would occur under authorizations DOE has already issued), and that this will cause a 30.2 bcf/d increase in U.S. gas production. DOE 2024 Study at S-31. Put differently, DOE predicts that if it continues approving exports, the volume of *additional* exports beyond those already approved will exceed the volume of gas used for electricity generation, and that supplying these additional exports will cause a nearly 30% increase in U.S. gas production. *Id.*, App. B, at B-18, B-20. No other agency has apparent authority over whether to expose the U.S. energy market to such a

tremendous additional source of gas demand. Indeed, no other agency has obvious authority over any *other* changes of comparable magnitude either. EPA has various authorities about the manner in which gas is produced, but no similar authority over the size of the gas market. States and land managers may regulate whether and how gas production occurs in particular places, but none has comparable authority over the nationwide gas market. Whereas these types of effects on domestic gas markets are the type of issue Congress intended DOE to consider in making its NGA determinations, and that DOE in fact considered here. This sharply distinguishes *Seven County*, in which the Surface Transportation Board was not uniquely situated in its ability to address oil extraction or refining. It also distinguishes various FERC pipeline cases in which the D.C. Circuit held that FERC was not required to second-guess other agencies' decisions about the wisdom of gas-fired power plants that would be supplied by FERC pipelines. *See, e.g., Sierra Club v. FERC*, 153 F.4th 1295, 1306 (D.C. Cir. 2025) ("*Cumberland Pipeline*"), *Citizens Action Coal. of Indiana, Inc. v. FERC*, 125 F.4th 229, 237 (D.C. Cir. 2025).

Seven County is further distinct because it relied on the finding that the railroad was not the proximate cause of the indirect effects at issue, 605 U.S. at 187, while here, DOE's approval of exports is a proximate cause of the predicted increase in gas production and use. *Seven County* held that there, the chain of proximate causation was broken because the oil refineries, oil wells, etc., were "separate projects" that "other agencies possess[ed] authority to regulate." *Id.* at 187-88. An intervening or superseding act can break the chain of proximate causations in some

circumstances. *See* Restatement (Third) of Torts: Phys. & Emot. Harm § 34, Intervening Acts and Superseding Causes (2010). But this is not always the case. *Id.* For example, when an effect is *intended* by the actor, the action can be a proximate cause of the effect even where the effect ultimately depends on action by a third party. *Staub v. Proctor Hosp.*, 562 U.S. 411, 419 (2011). This is true even where the third party is *also* a proximate cause of the effect—"it is common for injuries to have multiple proximate causes." *Id.* In *Seven Country*, the Court did not find that the Surface Transportation Board had relied upon upstream and downstream indirect effects as part of its justification for approval; nothing in the opinion suggested that these effects were the purpose of the action or were intended by the agency. But here, the indirect effects, particularly those related to increased gas production, have been foreseen by DOE, perform part of the justification for DOE's approval of exports (insofar as they are integral to DOE's price analysis), and are part of the benefits DOE identifies as supporting its decision, insofar as much of the economic activity constituting DOE's predicted GDP increase pertains to gas production. DOE 2025 Response at 3-4; 2024 Study, *App. D: Addendum on Environmental and Community Effects of U.S. LNG Exports* at D-48-D-49 (Dec. 2024). Looking downstream, DOE argues that exports are in the public interest if they cause foreign countries to use U.S. LNG in lieu of other energy sources; again, the downstream use of LNG is foreseen, intended, and part of the justification for action here. Order 51-53. Under traditional proximate cause framework (insofar as this framework can be applied prospectively to agency decisionmaking, rather than

retrospectively for assigning fault for actions that have already occurred), DOE's approval of exports is a proximate cause of these indirect effects. Thus, while *Seven County*'s reading proximate cause into NEPA should be treated narrowly (*see CSX Transp., Inc. v. McBride*, 564 U.S. 685, 701-02 (2011) (cautioning against reading proximate cause requirements into statutes that do not explicitly call for it),[9] traditional principles of proximate cause indicate that it "reasonable to hold [DOE] responsible for" the indirect effects of increased gas production and use here.

Finally, DOE cannot evade the above distinctions by arguing that gas production, etc., is a "separate project," *Seven County*, 605 U.S. at 187-190. In a regime of overlapping regulatory authorities, whether a project is meaningfully "separate" is best understood as merely a gloss on the above questions of whether the project is proximately caused by, or bears a reasonably close causal relationship with, the action at issue: *Seven County* did not articulate any other definition of 'separateness,' much less one that could be applied to a wide-ranging statutory obligation like the NGA vests with DOE. And here, it bears repeating that DOE is relying on indirect effects such as increased gas production in its NGA public interest analysis. Even if drilling of individual additional gas wells, for example, is viewed as a distinct project, that project is integral to DOE's analysis, rather than mere "development[s] that might someday be built." *Id*. at 187. DOE does not

[9] *See also Cnty. of Maui, Hawaii v. Hawaii Wildlife Fund*, 590 U.S. 165, 174 (2020) ("the term 'proximate cause' derives from general tort law, and it takes on its specific content based primarily on 'policy' considerations").

dispute that if additional gas production does *not* occur in response to increased exports, then gas prices will likely increase by far more than what DOE predicts here. This higher price increase would undermine DOE's conclusion that more exports are not inconsistent with the public interest. Because the causal chain is integral to DOE's own reasoning, DOE cannot claim that the causal relationship is not reasonably close, and this closeness means that the projects are not "separate" in the way that the projects were in *Seven County*.

In *Seven County*, Court identified a number of factors—including the narrowness of the Surface Transportation Board's statutory authority, geographic distance, the fact that other agencies had pertinent authority, and the fact that effects stemmed from conceptually distinct projects—in support of its conclusion that NEPA did not require the Board to consider effects of oil production and refining even if those effects were reasonably foreseeable and the Board's approval was a but-for cause of those effects. Most, if not all, of those factors are not present here. Accordingly, *Seven County* does not support DOE's conclusion that it need not consider environmental impacts beyond those related to ship traffic.

IV. DOE CANNOT RELY ON THE 2020 CATEGORICAL EXCLUSION, WHICH IS UNLAWFUL BOTH FACIALLY AND AS APPLIED.

In addition to citing *Seven County*, DOE's argument that it need not consider environmental effects other than ship traffic rests on the categorical exclusion DOE finalized on December 4, 2020. Order 13-14, 18, 55-57. National Environmental Policy Act Implementing Procedures, 85 Fed. Reg. 78197 (Dec. 4, 2020). Although this categorical exclusion was adopted in 2020, DOE did not apply or rely on it until

2025, and this is the first time DOE has applied it in a proceeding to which the undersigned are parties. This categorical exclusion is unlawful, both on its face and as applied here.

A. In Adopting the Categorical Exclusion, DOE Misread *Freeport II* and Related Cases, Which Do Not Support the Categorical Determination That Indirect Effects Are Unforeseeable.

The preamble to the 2020 categorical exclusion argues that the exclusion is supported by *Sierra Club v. DOE,* 867 F.3d 189 (D.C. Cir. 2017) ("*Freeport II*" or, in the Order, referred to as "*Sierra Club I*") and *Sierra Club v. DOE*, 703 F.3d. App'x 1 (D.C. Cir. 2017 ("*Sierra Club II*"). *See* 85 Fed. Reg. at 78200, 78201. DOE badly misread these cases. In them, DOE's environmental review was extensive, including the lengthy 2014 Environmental Addendum, the Life Cycle Report on greenhouse gas emissions, and other supporting DOE reports. *Freeport II*, 867 F.3d at 197. The Court considered all these documents in determining DOE's NEPA compliance because the parties had not challenged the form or process of DOE's analysis. *Id.* These cases did not present or decide the question of whether DOE could have lawfully approved exports without conducting and considering those analyses; the cases merely rejected arguments that DOE was required to do more. These cases, therefore, do not support a categorical exclusion that permits DOE to provide no environmental review whatsoever.

This is particularly clear regarding greenhouse gas impacts. The 2014 Environmental Addendum that was the foundation for DOE's analysis, *id*. at 195, acknowledged that greenhouse gases and climate change were an "exception" to DOE's assertion that "potential impacts of expanded natural gas production and

transport would be on a local or regional level."[10] DOE could therefore predict the climate impact of additional gas production without needing specific information on where that production would occur. And DOE did so: the 2014 Addendum estimated that "[e]ach incremental increase in natural gas production of 1 trillion scf/year is expected to increase upstream GHG emissions by an estimated 6.8 teragrams (Tg) of CO2-e/year initially to 5.8 Tg CO2-e by 2035."[11] DOE did argue that it was not *certain* how much production would increase in response to any given volume of export. But as with the approval here, DOE's approval rested on price and supply forecasts on this exact issue: this was an issue on which reasonable forecasting and speculation were possible. While *Freeport II* noted the "difficulty" with predicting how production would increase in response to exports, *Freeport II* did not hold that the *amount* of increased production was unforeseeable. 867 F.3rd at 198-99. Rather than hold that "the amount of greenhouse gases that would be emitted by export-induced gas production" was unforeseeable, *Freeport II* held that DOE had in fact foreseen this effect and "provided" it in the Life Cycle Report. *Id.* at 202. As to downstream greenhouse gas emissions, the Court similarly credited DOE for in fact foreseeing these emissions, and merely rejected—on the basis of the record before it—the claim that DOE should have provided additional detail concerning the possibility that exported LNG would displace renewables. *Id.* Holding that DOE

[10] 2014 Addendum, *supra* note 6, at 2.
[11] *Id*. at 44.

adequately addressed an effect is a far cry from holding that the effect is *per se* unforeseeable.

Even for non-climate effects, *Freeport II* held that DOE had provided an adequate analysis, not that DOE could have ignored these effects entirely. The Court summarized how DOE had "examined the effects" that would result from additional gas production even though DOE was unable to foresee where that production would occur. *Id.* at 201. DOE had "candidly discussed significant risks associated with increased gas production," *id.*, and the Court's holding was that DOE could not reasonably foresee the information needed to address these risks in greater detail than what DOE had provided. *Id.* at 199-200. *See Mid States Coal. for Progress v. Surface Transp. Bd.*, 345 F.3d 520, 549 (8th Cir. 2003) ("[W]hen the *nature* of the effect is reasonably foreseeable but its *extent* is not," an agency "may not simply ignore the effect" in its NEPA review.) (emphasis in original).

Freeport II, therefore, simply did not hold that all the effects of DOE authorization of exports, other than additional ship traffic, were so unforeseeable that DOE could ignore them entirely, *contra* 85 Fed. Reg. at 78200, 78201. *Freeport II* instead affirmed what was undisputed in that case, which was that DOE could provide significant discussion of many of these effects even if DOE could not predict where the effects would occur, and that DOE could reasonably predict many of the climate and greenhouse gas impacts of LNG export authorizations. *Freeport II* does not support categorically excluding the effects that DOE had analyzed in those

cases from NEPA review, and DOE's misreading of *Freeport II* is one reason why the categorical exclusion is arbitrary.

B. Whether Effects Are Unforeseeable Is Fact Specific, and Not a Suitable Basis for a Categorical Exclusion.

Agencies can adopt a "categorical exclusion" for "a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment." 42 U.S.C. 4336e(1).

Ordinarily, a categorical exclusion is adopted for action where the agency can foresee the effects of the action and can conclude that those effects are insignificant. The undersigned are not aware of any other categorical exclusion premised on the conclusion that effects cannot be foreseen in detail sufficient to support analysis, rather than on the conclusion that there will be no effects or that effects can conclusively be shown to be insignificant.

The distinction matters. DOE has never contended that increasing LNG exports will not cause additional gas production, that gas production will not have potentially significant effects, or that exports will not have downstream effects. DOE's numerous analyses would not permit it to dispute that increasing LNG exports *will* have these effects. Instead, DOE's position has been that while these effects will occur, their magnitude, location, and details can be challenging to foresee.

Whether, and to what extent, those effects can be foreseen is a necessarily fact-specific question. Foreseeability will turn on the facts of individual cases, as was demonstrated by DOE's supplemental environmental impact statement for the

Alaska LNG project, in which DOE determined that the effects of producing the gas that the project would export *were* foreseeable, including both climate and non-climate effects.[12] Pivoting downstream, an individual project's contracts can enable reasonable forecasting about the destination for that project's exports, and the effects thereof (including the length and climate impact of ship transit, and whether, in the particular receiving market, U.S. LNG is likely to displace coal, gas, renewable energy, or to instead represent an increase in energy consumption). Here, DOE has not addressed whether the ten delivery contracts CP2 has entered into thus far[13] enable DOE to reasonably speculate where portions of the gas exported from CP2 are likely to go, and if so, whether this information resolves some of the uncertainty about downstream effects.

Beyond project-specific factual information, foreseeability also turns on the evolving capability of available modeling tools. For example, the 2024 Study relies on the Global Change Analysis Model, a tool that DOE had not found to be suitable for use in DOE's 2014 analyses. Development of this model, and DOE's recognition thereof, demonstrates that agency's ability to foresee impacts evolves over time.

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[12] *DOE/EIS-0512-S1: Final Supplemental Environmental Impact Statement (January 6, 2023),* U.S. Dep't of Energy (Jan. 6, 2023), *available at* https://www.energy.gov/nepa/articles/doeeis-0512-s1-final-supplemental-environmental-impact-statement-january-6-2023.

[13] *Venture Global CP2 LNG, LLC Facility*, U.S. Dep't of Energy (Aug. 12, 2025), available at https://www.energy.gov/fecm/articles/venture-global-cp2-lng-llc-facility.

Such changes mean that it is inappropriate to categorically determine whether certain types of impacts can be foreseen.

C. Here, DOE Has Actually Foreseen Effects Relating to Gas Production and Use, Precluding DOE from Arguing That These Effects Are Unforeseeable.

DOE's assertions (in the preamble to the categorical exclusion, in the 2025 Response, and in the Order here) that DOE's decision to authorize exports will have no foreseeable effects other than effects on ship traffic are further refuted by the fact that the 2024 Study foresees many of these effects.

DOE's 2024 Study provides quantitative analysis with respect to climate. DOE's argument for ignoring this analysis in its determination of individual non-FTA applications, 2025 Response at 12, is arbitrary.

DOE first errs by asserting that "the Study found increases in GHG emissions from higher U.S. LNG exports to be minimal." *Id*. DOE predicts that the cumulative climate impact of approving additional exports will be comparable to the cumulative impact of EPA's 2024 rules on greenhouse gas emissions from existing coal and new gas-fired power plants. Specifically, DOE predicts that through 2050, additional exports (beyond those DOE has already approved) would entail an additional net 711 million metric tons of carbon dioxide equivalent global emissions in the "model resolved" scenario, or 1,452 million tons in the "high exports" scenario. DOE 2024 Study at S-41. In contrast, EPA expects that its 2024 power plant rules will avoid 1,380 million metric tons of carbon dioxide equivalent through

2047.[14] It is arbitrary for DOE to assert, without support or explanation, that an effect of magnitude similar to one of EPA's key climate rules would have only a "minimal" effect on greenhouse gas emissions. Although the 2024 Study estimated that these increases would constitute only a small percentage increase of global greenhouse gas emissions, a small part of a massive problem can itself be individually significant. Indeed, DOE's estimates of the social cost of these additional emissions (ranging from $84 to $500 *billion* dollars, depending on the discount rate) demonstrate that the impact of these emissions is not "minimal" in any meaningful sense of the word.

DOE then errs in arguing that increases in emissions from additional exports are too uncertain to be reasonably analyzed or considered. NEPA requires reasonable forecasting and speculation. The fact that DOE cannot "definitively determine whether GHG emissions would increase with rising levels of U.S. LNG exports," 2025 Response at 12, does not mean that DOE can ignore its own analyses showing that additional exports are likely to have this effect. This is especially so where DOE has not offered any criticism of the methodology or assumptions used in

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[14] *Biden-Harris Administration Finalizes Suite of Standards to Reduce Pollution from Fossil Fuel-Fired Power Plants*, U.S. Env't Prot. Agency (April 25, 2024), *available at* https://www.epa.gov/newsreleases/biden-harris-administration-finalizes-suite-standards-reduce-pollution-fossil-fuel (discussing EPA, New Source Performance Standards for Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions From Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule, 89 Fed. Reg. 39798, 39863 (May 9, 2024)).

the 2024 Study—to the contrary, DOE's 2025 response to comments generally affirms the soundness of the 2024 Study's approach. The undersigned's comments on the 2024 Study similarly demonstrated that DOE's approach was consistent with approaches used in the scientific community. Comments of Earthjustice *et al.*, at 2-3, 6 (Jan. 17, 2025). In light of this analysis, DOE cannot dismiss the climate impacts of its export approvals as categorically unforeseeable or categorically insignificant.

The 2024 Study similarly demonstrates that DOE can provide meaningful information about the non-climate effects additional exports will have relating to gas production. These effects are foreseeable in meaningful ways, even if DOE cannot provide quantitative or geographically specific forecasts of these effects, as the D.C. Circuit recognized in *Freeport II*. Again, where DOE has already foreseen effects, DOE cannot argue that those effects are so unforeseeable that they can categorically be dismissed as insignificant or not being "effects" of the action at all.

D. The Effects of the Terminal Preclude Use of a Categorical Exclusion.

In adopting the categorical exclusion, DOE argued that effects of "LNG terminal construction and operation" were "beyond [DOE's] decision-making authority," and that "FERC has exclusive statutory authority to approve construction and operation of natural gas export facilities." 85 Fed. Reg. at 78199. This is legally incorrect. DOE has failed to rebut the argument that FERC's approval of the terminal is a connected action. *See* Order 29-30 (summarizing this argument).

FERC's authority over export facilities is not "statutory;" FERC's authority derives from DOE delegation.[15] And while the narrow terms of DOE's delegation mean that DOE's authority over exports is exclusive with respect to FERC, *Sierra Club v. FERC*, 827 F.3d 36, 40 (D.C. Cir. 2016) ("*Freeport I*"), such that FERC cannot consider these effects even in the connected action context, *Alabama Mun. Distributors Grp. v. FERC*, 100 F.4th 207, 213-14 (D.C. Cir. 2024), the reverse is not true: DOE is not excluded from considering issues it has delegated to FERC. To the contrary, DOE's order delegating authority over export infrastructure to FERC explicitly reserved to DOE "disapproval authority" over delegated FERC decisions.[16] Specifically,

> the Assistant Secretary for Fossil Energy and Carbon Management or a delegate is authorized to disapprove the construction and operation of particular facilities, the site at which such facilities shall be located, and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports.[17]

Thus, the preamble to the 2020 categorical exclusion errs in asserting that "DOE lacks the authority to prevent effects stemming from the construction and operation of such a facility." 85 Fed. Reg. at 78201. DOE has explicitly reserved such authority to itself.

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[15] U.S. Dep't of Energy, Delegation Order No. S1-DEL-FERC-2006 to the Federal Energy Regulatory Commission, at 1.21.A (May 16, 2006).

[16] *Id*.

[17] U.S. Dep't of Energy, Redelegation Order S4-DEL-FE1-2023 to the Assistant Secretary for Fossil Energy and Carbon Management, at 1.5.A.2 (April 10, 2023).

The fact that DOE is not precluded from basing its action on the conclusion that the effects of a terminal are harmful undermines its basis for rejecting the argument that the DOE and FERC authorizations are "connected actions" that must be considered together. 85 Fed. Reg. 78199 (arguing that the actions are not connected because DOE has no authority to act based on the terminal's impacts). DOE acknowledged that that argument was presented here, Order 29-30, but DOE did not respond to it.

Historically (before 2025), where FERC has prepared a NEPA document for export infrastructure, DOE has adopted that document and considered it in DOE's own export determinations. Thus, recognizing the terminal as a connected action does not require DOE to reinvent the wheel. But relying on FERC's analysis of environmental effects is different than a flat, blanket assertion that there are no effects to discuss. Thus, even if (counterfactually) DOE had demonstrated that exports would have no significant effects other than effects at the terminal, the potential for significant effects at the terminal would still prevent DOE from adopting a categorical exclusion for exports. DOE will frequently be able to meet its obligation to consider the impacts of export infrastructure by adopting another agency's NEPA document, but such adoption is a distinct process, with different implications for public participation and agency decisionmaking than reliance on a categorical exclusion.

E. Effects of Ship Traffic Are Not Categorically Insignificant.

Finally, even for the one effect that DOE agrees it does have a NEPA obligation to consider—the vessel traffic associated with additional exports—the

categorical exclusion and Order fail to support the conclusion that this impact is insignificant, in this case or categorically. DOE's analysis is flawed for three reasons.

First, DOE's claim that ship traffic associated with LNG exports has constituted less than one percent of *U.S.* shipping traffic, 85 Fed. Reg. at 78202, is irrelevant to the question of whether traffic from LNG exports will have significant impacts in the *Gulf*. In determining whether traffic will have a significant environmental impacts in the Gulf, such as by impacting the critically endangered Rice's whale, the pertinent question is the extent to which LNG exports will increase ship traffic *in that region*. Diluting the denominator or percentage with ship traffic in other regions (e.g., including ships on the Pacific coast) obscures the relevant issue.

Second, DOE's observation that the amount of vessel traffic associated with LNG exports was small from 2017 through 2019 provides no information about whether the traffic associated with LNG exports will be small if DOE continues to authorize additional exports. The U.S. exported almost negligible volumes of LNG until 2016. In 2017, the US exported 0.7 trillion cubic feet of gas; in 2019, 1.8 trillion.[18] That's a small fraction of what the U.S. exports now (in 2024, 4.4 trillion cubic feet),[19] and an even smaller fraction of the level of exports DOE expects to

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[18] *Natural Gas – Liquified U.S. Natural Gas Exports*, U.S. Energy Information Admin., *available at* https://www.eia.gov/dnav/ng/hist/n9133us2A.htm (last accessed Nov. 20, 2025).

[19] *Id.*

occur if DOE issues additional authorizations (by 2050, roughly 20 trillion cubic feet per year. DOE, 2024 Study, at S-3). Pointing out that levels of LNG-export vessel traffic were low in this time period provides no support for the conclusion that such traffic will not have significant impacts in the future.

Third, as with climate, DOE must address the possibility that even a small part of a large problem can be individually significant. Even if DOE demonstrates that LNG traffic accounts for only a small percentage of the pertinent total, this does not mean that additional traffic cannot have significant environmental effects, especially where endangered species are concerned. But DOE has provided no analysis on this issue.

CONCLUSION

For the reasons explained above, Sierra Club and NRDC respectfully request that DOE grant rehearing of DOE/FECM Order 5264-A and withdraw that Order pending further analysis to correct the deficiencies identified above.

Respectfully submitted November 20, 2025.

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CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Nathan Matthews, hereby certify that I am a duly authorized representative of Sierra Club, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of Sierra Club the foregoing documents in the above captioned proceeding.

Executed in Oakland, CA on November 20, 2025.

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CERTIFIED STATEMENT OF AUTHORIZED REPRESENTATIVE

Pursuant to 10 C.F.R. § 590.103(b), I, Caroline Reiser, hereby certify that I am a duly authorized representative of the Natural Resources Defense Council, and that I am authorized to sign and file with the Department of Energy, Office of Fossil Energy and Carbon Management, on behalf of the Natural Resources Defense Council, the foregoing documents in the above captioned proceeding.

Executed in Washington, D.C. on November 20, 2025.

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VERIFICATION

Pursuant to 10 C.F.R. § 590.103(b) and 28 U.S.C § 1746, I, Nathan Matthews, hereby verify under penalty of perjury that I am authorized to execute this verification, that I have read the foregoing document, and that the facts stated therein are true and correct to the best of my knowledge.

Executed in Oakland, CA on November 20, 2025.

s/ Nathan Matthews
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CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 590.107, I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Executed in Oakland, CA on November 20, 2025.

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